

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3732 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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NAYAK RAMESHBHAI MANEKLAL

Versus

DIRECTOR OF EDUCATION  
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Appearance:

MR BR KYADA for Petitioner

MR DP JOSHI ASSTT. GOVERNMENT PLEADER for  
Respondent Nos. 1 and 3

NOTICE SERVED for respondent no.2  
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CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 11/02/2000

ORAL JUDGEMENT

1. One Nayak Rameshbhai Maneklal, is shown as the sole petitioner in the cause title of the petition, however, the learned advocate appearing for the petitioner has submitted that the persons whose names are mentioned in

Annexure : ' A ' are also the affected persons. The relief sought for by the petitioner is, the issuance of a writ of mandamus from this Court directing the respondent no.3 to pay House Rent Allowance at the rate of Rs.450/per month instead of Rs.100/- per month and further direction against the respondent no.2 -the Management to grant House Rent Allowance to the petitioner as well as those other affected employees also, working under them, as per the Government Resolution No. BCR-1087-4-M, dated 1st June, 1987. The case of the petitioner in the petition is that the petitioner and other teachers and staff members are working in the school known as B.S.Patel, High School, at Village Uvarsad, Dist. Gandhinagar and the petitioner -Nayak Rameshbhai Maneklal who is a teacher whose details are set out at Page 7 (Annexure: A) is residing at Ahmedabad, while others are residing at village Uvarsad and one of them is residing at village Mundrasan, Tal. & Dist. Gandhinagar. It is contended by the petitioner that the petitioner and other employees are entitled to get H.R.A. under the said resolution as mentioned in Table II Column 2 which provides for the H.R.A. payable to Class A, B-1 and B-2 cities at the rate of Rs.450/while they are paid only at the rate of Rs.100/which is payable in case of unclassified cities.

2. An affidavit is filed by District Education Officer, Gandhinagar in which it is stated in Para 4 that petitioner along with other employees mentioned therein (Para 4) are serving in B.S.Patel High School at Uvarsad and staying at Ahmedabad and as the Uvarsad i.e. place of service would fall within unclassified cities as per Government Resolution, they will not be entitled to get H.R.A. and C.L.A. as provided for Class-A, B-1 and B-2 cities. It is also stated in the said affidavit that the employees as mentioned in Para 4 would also not be entitled to H.R.A. and C.L.A. as available to other employees who are stationed at Gandhinagar as per other Government Resolution dt. 10th August, 1987. It is further mentioned in the said affidavit that a special arrangement for granting H.R.A. and C.L.A. is made for those who are working at Gandhinagar and staying at Gandhinagar by the Government.

3. The perusal of the Government Resolution in question makes it clear that under that G.R. the cities are classified in three groups. Cities falling in Classes A, B-1 and B-2 form one group, while cities falling in class 'C' form second group and unclassified cities form third group. The H.R.A. is payable at different rates to those three different groups. It is

clear from the material placed on record of the petition by the petitioner himself about the place of working and the place of residence at Annexure : 'A' copy of the petitioner and other affected employees, that the place of working is at village " Uvarsad " which does not fall in the first two groups and falls only in third group i.e. "unclassified cities" and accordingly they are paid H.R.A. at the rate admissible. Mr. B.R.Kyada is not able to point out anything so as to entitle the petitioner and other employees for H.R.A. at a rate higher than the one which is paid to those employees. Hence the petition fails.

4. However, at this juncture, Mr. B.R.Kyada, the learned advocate for the petitioner submits that the petitioner and other employees may be given a liberty to make a representation to the concerned authorities to put forward their claim for the entitlement of H.R.A. at a higher rate according to Rules. The learned counsel also seeks liberty to satisfy the concerned authorities about their fulfilling of necessary conditions for the same. The petitioner and other employees are always at liberty to make such representation and the authorities shall always be open to consider such representation/s as and when made, in accordance with law. In fact, this Court, while issuing Rule, had passed an interim direction to the effect that " By way of interim direction, the respondents are directed to consider the cases of those petitioners whose place of duty is at Adalaj School and who of necessity reside, reside in Ahmedabad i.e. petitioner No.1 Ramjibhai Hirpara in Spl.C.A.No.3680/88 in whose case the H.R.A. is already granted as claimed in the petition. The petitioners concerned agree to supply the necessary evidence in support of their applications within one week from today. The respondents are directed to consider and decide the same within 15 days thereafter. " However the petitioner and other employees, if so choose, may file a fresh representation, which the authorities shall consider in accordance with law, as expeditiously as possible.

5. In the result, the petition fails. Rule is discharged with no order as to costs.

Date: 11/2/2000. -----  
(ccshah)